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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/923,506	08/06/2001	Victor S. Moore	BOC9-2001-0006(241)	1774
7590 05/07/2007 Gregory A. Nelson 222 Lakeview Avenue., Fourth Floor P.O. Box 3188 West Palm Beach, FL 33401			EXAMINER ELAHEE, MD S	
			ART UNIT 2614	PAPER NUMBER
			MAIL DATE 05/07/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/923,506

Applicant(s)

MOORE ET AL.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed on 01/10/2007. Claims 1-20 are pending.

Response to Argument

2. The applicant argues on page 9 of Remarks filed on 01/10/2007 that the combination of the references are moot because Applicants' invention predates the May 13, 2000, effective date of the newly-cited reference, Goldberg. Examiner respectfully disagrees with this argument. According to MPEP 715.07, under 37 CFR 1.131, the critical period in which diligence must be shown begins just prior to the effective date of the reference or activity that ends with the date of a reduction to practice. Furthermore, according to MPEP 2138.06, diligence requires that applicants must be specific as to dates and facts.

The newly submitted declaration of Victor S. Moore, Edith H. Stern and Barry E. Willner is insufficient to establish diligence from a date prior to the date of reduction to practice of the Stuart et al. reference to either a constructive reduction to practice or an actual reduction to practice.

Further, No evidence to show diligence between 05/13/2000 to 07/26/2000, 07/26/2000 to 01/03/2001, 01/23/2001 to 02/20/2001 and 02/28/2001 to 07/27/2001. Further, within the laps period, the applicant does not show any activity.

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3. The Applicant further argues on pages 12-17 that “the second feature, that of providing a plurality of different software programs, was not disclosed in the parent application of Stewart”. Examiner respectfully disagrees with this argument. In col.12, lines 44-47, Stewart’221 discloses that service provider includes memory where multiple computer programs are stored. Therefore it is clear that Stewart teaches the second feature.

The Applicant further argues on page 14 that “The providing of such a certificate has nothing to do, however, with providing a plurality of different software programs”. However, this argument is **not** relevant because, Examiner relied upon Stewart for the teaching of ‘a plurality of different software programs’. In col.12, lines 44-47, Stewart’221 discloses that a service provider includes memory where multiple computer programs are stored.

Thus the rejection of the claims in view of Stewart’221, Goldberg and Djupsjobacka remain.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Stewart et al.** (U.S. 6,732,176) in view of **Goldberg** (U.S. 2003/0096633) further in view of **Djupsjobacka et al.** (U.S. 6,954,735).

Regarding claims 1 and 9, **Stewart** teaches providing a short-range radio frequency communications system, the system having a wireless access point [i.e., host computing device] connected to a computer communications network over a physical communications link medium, the system being configured both to provide network provider [i.e., ASP] services over short-

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range radio communications links to portable computing device, PCD [i.e., wireless devices] in a Local area network [i.e., personal area network (PAN)], and also to receive at least a portion of said provider services from other providers in the computer communications network over the physical communications link medium (abstract; fig.1, 6; col.5, lines 2-14, 25-35, 55-61, col.6, lines 15-28);

Stewart further teaches the Application Service Provider services comprising a plurality of different software programs (col.8, lines 36-38, col.10, lines 38-52, col.13, lines 34-39). However, **Stewart** does not specifically teach 'a plurality of different software programs from among which a user of a wireless device selects and interacts with via a short-range radio communications link'. **Goldberg** teaches a plurality of services [i.e., different software programs] from among which a user of a wireless device selects and interacts with via a short-range radio communications link (fig.1,4; page 1, paragraphs 0014, 0015, page 2, paragraphs 0025, 0026). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** to incorporate a plurality of different software programs from among which a user of a wireless device selects and interacts with via a short-range radio communications link in order to provide user with an option to interact with a particular service via a short range.

Stewart further teaches establishing a short-range radio communications link with a PCD in the Local area network (fig.6; col.5, lines 2-14, col.10, lines 38-52);

Stewart further teaches transmitting to the PCD over the short-range radio communications link a list of the network provider services (col.6, lines 15-28, col.7, lines 12-14, col.8, lines 4-9);

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Stewart further teaches receiving from the PCD requests for network provider services (col.5, lines 63-67, col.6, lines 1-4, 15-28). However, **Stewart** in view of **Goldberg** does not specifically teach 'at least one of said Application Service Provider services selected from said list of Application Service Provider services'. **Djupsjobacka** teaches at least one of the Application Service Provider services selected from the list of Application Service Provider services (col.3, lines 48-55, col.9, lines 60-62, col.10, lines 38-42, 44-47). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** in view of **Goldberg** to incorporate the feature of selecting at least one of the Application Service Provider services from the list of Application Service Provider services in order to provide user with an option to make a proper selection of a particular service.

Stewart further teaches determining if the wireless access point can provide the requested at least one provider service without requiring further assistance from another provider (col.5, lines 63-67, 55-62, col.6, lines 1-4, 15-28, 62-67, col.7, lines 1-3);

Stewart further teaches if the wireless access point cannot provide the requested at least one provider service without requiring further assistance from another provider, retrieving the requested at least one provider service from another provider over the physical communications link medium (col.7, lines 4-23).

Regarding claims 2, 6 and 10, **Stewart** teaches establishing an IEEE 802.11-based communications link with the portable device (col.5, lines 8-14, 20, 21, col.10, lines 38-52).

However, **Stewart** does not specifically teach BLUETOOTH-based communications link. **Goldberg** teaches BLUETOOTH-based communications link (fig.4; page 2, paragraphs

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0025, 0026). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** to incorporate BLUETOOTH-based communications link as taught by **Goldberg**. The motivation for the modification is to do so in order to provide user with a specific standard for a communication range.

Regarding claims 3, 4, 11 and 12, **Stewart** teaches establishing an 802.11 standard [i.e., IEEE 802.11b and IEEE 802.11a] based communications link with said portable device (col.5, lines 8-14, 20, 21, col.10, lines 38-52).

Claim 5 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Stewart** teaches a list of provider services which can be accessed by the PCDs in the Local area network, the provider services in the list residing locally in the wireless access point and remotely in provider servers in the communications network (col.5, lines 36-50, 55-62, col.6, lines 15-28, col.7, lines 30-32, 46-61, col.8, lines 4-9, 35-49).

However, **Stewart** does not specifically teach 'each of the different software programs being configured to be executed by said wireless device when received'. **Goldberg** teaches each of the different software programs being configured to be executed by the wireless device when received (fig.1,4; page 1, paragraphs 0014, 0015, page 2, paragraphs 0025, 0026). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** to incorporate each of the different software programs being configured to be executed by the wireless device when received in order to provide user to access a particular service through a particular provider.

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Stewart in view of **Goldberg** does not specifically teach 'the list indicating which provider services can be distributed to said wireless devices in the Local area network'. **Djupsjobacka** teaches the list indicating which provider services can be distributed to the wireless devices in the Local area network (col.3, lines 48-55, col.9, lines 60-62, col.10, lines 38-42, 44-47). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** in view of **Goldberg** to incorporate the list indicating which provider services can be distributed to the wireless devices in the Local area network in order to inform a user with availability of services from which the user can make a particular choice of a particular service.

Regarding claims 7 and 8, **Stewart** teaches a short-range radio communications system configured in accordance with 802.11 standard [i.e., IEEE 802.11a and IEEE 802.11b] (col.5, lines 8-14, 20, 21, col.10, lines 38-52).

Claim 13 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Stewart** teaches receiving from the Service Providers a list of Available Service Provider services at the PCD (col.6, lines 15-28, col.8, lines 4-9).

Regarding claim 14, **Stewart** teaches the list of Available Service Provider services is transmitted to the PCD in response to a request [i.e., query] transmitted by the PCD (col.5, lines 63-67, col.6, lines 1-4, 15-28, col.7, lines 12-14, col.8, lines 4-9).

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Regarding claim 15, **Stewart** teaches the list of Available Service Provider services is transmitted to the PCD automatically from the Available Service Providers in response to detecting a presence of the PCD within the LAN (col.5, lines 55-67, col.6, lines 1-4, 15-28, col.8, lines 4-9).

Regarding claim 16, **Stewart** teaches the list of Available Service Provider services is transmitted to the PCD automatically from the Available Service Providers in response to detecting a presence of the PCD within the LAN (fig.4; col.11, line 54-col.12, line 10).

Regarding claim 17, **Stewart** teaches prompting the PCD to register with the Available Service Providers if the PCD is not a valid subscriber (fig.4; col.11, line 54-col.12, line 10).

Regarding claim 18, **Stewart** teaches that the list of available services is determined based upon at least one of prioritization, transaction statistics, resources of the PCD, and resources of the communications system (fig.4; col.7, lines 30-45, col.11, line 17-col.12, line 10).

Claims 19 and 20 are rejected for the same reasons as discussed above with respect to claim 5.

8. Claims 1, 5, 9 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Stewart et al.** (U.S. 6,571,221) in view of **Goldberg** (U.S. 2003/0096633) further in view of **Djupsjobacka et al.** (U.S. 6,954,735).

Regarding claims 1 and 9, **Stewart** teaches providing a short-range radio frequency communications system, the system having a wireless access point [i.e., host computing device] connected to a computer communications network over a physical communications link medium, the system being configured both to provide network provider [i.e., ASP] services over short-range radio communications links to portable computing device, PCD [i.e., wireless devices] in a wireless local area network [i.e., personal area network (PAN)], and also to receive at least a portion of the provider services from other providers in the computer communications network over the physical communications link medium (abstract; fig.1; col.5, line 29-col.6, line 16);

Stewart further teaches the Application Service Provider services comprising a plurality of different software programs (col.12, lines 43-47, col.15, lines 47-53, col.17, lines 50-55, 64-67, col.18, lines 1-3). However, **Stewart** does not specifically teach 'a plurality of different software programs from among which a user of a wireless device selects and interacts with via a short-range radio communications link'. **Goldberg** teaches a plurality of services [i.e., different software programs] from among which a user of a wireless device selects and interacts with via a short-range radio communications link (fig.1,4; page 1, paragraphs 0014, 0015, page 2, paragraphs 0025, 0026). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** to incorporate a plurality of different software programs from among which a user of a wireless device selects and interacts with via a short-range radio communications link in order to provide user with an option to interact with a particular service via a short range.

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Stewart further teaches establishing a short-range radio communications link with a PCD in the local area network (col.6, lines 1-16);

Stewart further teaches transmitting to the PCD over the short-range radio communications link a list of the network provider services (col.9, lines 50-54, col.10, lines 34-40).

Stewart further teaches receiving from the PCD requests for network provider services (col.7, lines 50-67, col.8, lines 1-13, col.9, lines 35-67, col.10, lines 1-5, 34-40). However, **Stewart** in view of **Goldberg** does not specifically teach 'at least one of said Application Service Provider services selected from said list of Application Service Provider services'. **Djupsjobacka** teaches at least one of the Application Service Provider services selected from the list of Application Service Provider services (col.3, lines 48-55, col.9, lines 60-62, col.10, lines 38-42, 44-47). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** in view of **Goldberg** to incorporate the feature of selecting at least one of the Application Service Provider services from the list of Application Service Provider services in order to provide user with an option to make a proper selection of a particular service.

Stewart further teaches determining if the wireless access point can provide the requested at least one provider service without requiring further assistance from another provider (fig.4, 5; col.9, lines 35-67, col.10, lines 1-5, 34-40, 56-67, col.13, lines 17-23, 54-67, col.14, lines 1-5, 17-62, col.16, lines 16-61);

Stewart further teaches if the wireless access point cannot provide the requested at least one provider service without requiring further assistance from another provider, retrieving the

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requested at least one provider service from another provider over the physical communications link medium (fig.4, 5; col.9, lines 35-67, col.10, lines 1-5, 34-40, 56-67, col.13, lines 17-23, 54-67, col.14, lines 1-5, 17-62, col.16, lines 16-61).

Claim 5 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Stewart** teaches a list of provider services which can be accessed by the PCDs in the Local area network, the provider services in the list residing locally in the wireless access point and remotely in provider servers in the communications network (col.9, lines 23-27, 35-67, col.10, lines 1-5, 34-40, 56-67, col.13, lines 17-23, 54-67, col.14, lines 1-5, 17-62, col.15, lines 47-53).

However, **Stewart** does not specifically teach 'each of the different software programs being configured to be executed by said wireless device when received'. **Goldberg** teaches each of the different software programs being configured to be executed by the wireless device when received (fig.1,4; page 1, paragraphs 0014, 0015, page 2, paragraphs 0025, 0026). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** to incorporate each of the different software programs being configured to be executed by the wireless device when received in order to provide user to access a particular service through a particular provider.

Stewart in view of **Goldberg** does not specifically teach 'the list indicating which provider services can be distributed to said wireless devices in the Local area network'. **Djupsjobacka** teaches the list indicating which provider services can be distributed to the wireless devices in the Local area network (col.3, lines 48-55, col.9, lines 60-62, col.10, lines 38-

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42, 44-47). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Stewart** in view of **Goldberg** to incorporate the list indicating which provider services can be distributed to the wireless devices in the Local area network in order to inform a user with availability of services from which the user can make a particular choice of a particular service.

Claim 13 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Stewart** teaches receiving from the Service Providers a list of Available Service Provider services at the PCD (col.9, lines 23-27, col.15, lines 47-53).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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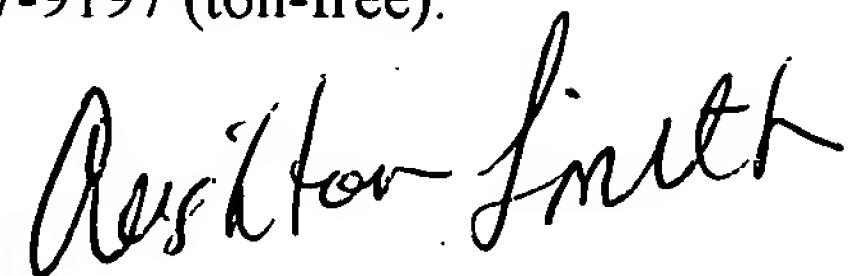
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ME

MD SHAFIUL ALAM ELAHEE
March 29, 2007



CREIGHTON SMITH
PRIMARY EXAMINER